

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

THE BURKHALTER LAW FIRM, P.C.,)	
)	
Plaintiff,)	
)	
v.)	No. _____
)	Judge _____
THE DEPARTMENT OF ENERGY, NATIONAL)	JURY DEMAND
NUCLEAR SECURITY ADMINISTRATION,)	
)	
Defendant.)	

COMPLAINT FOR VIOLATION OF FREEDOM OF INFORMATION ACT

COMES NOW the Plaintiff, THE BURKHALTER LAW FIRM, P.C., pursuant to the Freedom of Information Act, 5 U.S.C. § 552, who would show unto this Honorable Court as follows:

1. The Plaintiff, The Burkhalter Law Firm, P.C., is a professional corporation with its principle place of business in Knoxville, Knox County, Tennessee.
2. The Department of Energy is a governmental agency doing business in Anderson County, Tennessee and elsewhere, and may be served with process via: The Secretary of Energy, Rick Perry, U.S. Department of Energy, 1000 Independence Avenue, Washington, D.C., 20585, and the United States Attorney for the Eastern District of Tennessee, J. Douglas Overby, U.S. Attorney's Office, 800 Market Street, Suite 211, Knoxville, Tennessee, 37902.
3. Jurisdiction is founded upon Federal Question, 28 U.S.C. § 1331, and the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(B).
4. Venue is proper under the code provision cited herein, and 28 U.S.C. § 1391 (b) and (c).

5. The Defendant is subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 552, *et seq.*

6. On June 11, 2018 and June 12, 2018, the Plaintiff submitted requests to The Department of Energy pursuant to the Freedom of Information Act. (Copies of said requests are attached hereto as Exhibits A and B).

7. The Plaintiff's Freedom of Information Act requests (Exhs. A and B) were properly served upon the Defendant in accordance with 5 U.S.C. § 552, *et seq.*, and the Defendant's regulations.

8. By letter dated June 27, 2018, the Defendant initially responded to Plaintiff's June 11, 2018 Freedom of Information Act request. (A copy of Defendant's initial response dated June 27, 2018, is attached hereto as Exhibit C).

9. By letter dated July 2, 2018, the Defendant initially responded to Plaintiff's June 12, 2018 Freedom of Information Act request. (A copy of Defendant's initial response dated July 2, 2018, is attached hereto as Exhibit D).

10. The Defendant's initial responses indicated Defendant would comply with Plaintiff's requests, but stated it needed more time to comply. (*See* Exhs. C and D).

11. Pursuant to 5 U.S.C. § 552, *et seq.*, the Defendant was to produce the requested documents and emails promptly.

12. After Defendant's initial responses dated June 27, 2018 and July 2, 2018, the Defendant, via emails, has repeatedly given and extended multiple dates for the production of the requested documents and emails giving various excuses. (Copies of the emails are attached hereto as Exhibit E). Given this history, Plaintiff has no idea if or when Defendant will comply and produce the requested documents and emails.

13. The Defendant has failed to comply with the provisions of the Freedom of Information Act, 5 U.S.C. § 552, *et seq.*

14. The Plaintiff would request for the Defendant to be ordered to comply with the Freedom of Information Act and promptly provide all documents and emails as requested in the Freedom of Information Act requests attached hereto as Exhs. A and B.

Wherefore, the Plaintiff seeks the following relief:

1. For the Defendant to be ordered to promptly comply with the Freedom of Information Act and to provide all responsive emails and documents as requested in the Plaintiff's requests attached hereto as Exhs. A and B, within a time certain.
2. For the Plaintiff to be awarded reasonable attorney fees and all litigation costs, and all such other and general relief as may be deemed appropriate.

RESPECTFULLY SUBMITTED this 14th day of October, 2019.

THE BURKHALTER LAW FIRM, P.C.

s/David A. Burkhalter, II
David A. Burkhalter, II, BPR #004771
D. Alexander Burkhalter, III, BPR #033642
Zachary J. Burkhalter, BPR #035956
Attorneys for Plaintiff
111 S. Central Street
P.O. Box 2777
Knoxville, Tennessee 37901-2777
(865) 524-4974